

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robert Bryan	Team: Squad #2	CCRB Case #: 201806622	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/03/2018 2:00 PM	Location of Incident: 910 Morris Avenue (Melrose Public Library)	Precinct: 44	18 Mo. SOL 2/3/2020	EO SOL 2/3/2020	
Date/Time CV Reported Fri, 08/03/2018 2:08 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/13/2018 11:01 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Marycather Nashlenas	23091	959839	044 PCT
2. POM Anthony Basora	19701	958293	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Basora	Abuse: Police Officer Anthony Basora threatened to arrest § 87(2)(b)	
B.POF Marycather Nashlenas	Abuse: Police Officer Marycather Nashlenas threatened to arrest § 87(2)(b)	
C.POF Marycather Nashlenas	Abuse: Police Officer Marycather Nashlenas threatened § 87(2)(b) with the use of force.	
D.POM Anthony Basora	Abuse: Police Officer Anthony Basora refused to provide his name to § 87(2)(b)	
E.POF Marycather Nashlenas	Abuse: Police Officer Marycather Nashlenas refused to provide her name to § 87(2)(b)	
F.POM Anthony Basora	Abuse: Police Officer Anthony Basora refused to provide his shield number to § 87(2)(b)	

Case Summary

On August 3, 2018, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB) by telephone. The complaint was received by the CCRB on August 13, 2018.

At approximately 2:00 p.m. on August 3, 2018, § 87(2)(b) fell asleep in the Melrose Public Library, located at 910 Morris Avenue in the Bronx. Police Officer Anthony Basora and Police Officer Marycatherine Nashlenas from the 44th Precinct responded to a radio call after members of the library's staff had repeatedly asked § 87(2)(b) to leave and eventually called the police. § 87(2)(b) informed Police Officer Basora and Police Officer Nashlenas that she had repeatedly informed § 87(2)(b) that there was no sleeping in the library. § 87(2)(b) pointed out § 87(2)(b) and the two officers approached him.

Police Officer Basora and Police Officer Nashlenas allegedly threatened to arrest § 87(2)(b) (**Allegations A and B – Abuse of Authority – Threat of arrest**; § 87(2)(g)). Police Officer Nashlenas allegedly threatened to physically remove him from the library (**Allegation C – Abuse of Authority – Threat of force (verbal or physical)**; § 87(2)(g)). § 87(2)(b) eventually agreed to leave without force, and he exited the library along with Police Officer Basora and Police Officer Nashlenas. Once outside, § 87(2)(b) allegedly requested the names of both officers. Police Officer Basora and Police Officer Nashlenas allegedly refused to provide their names (**Allegation D and E – Abuse of Authority – Refusal to provide name**; § 87(2)(g)). § 87(2)(b) allegedly requested Police Officer Basora's shield number and he failed to provide it (**Allegation F – Abuse of Authority – Refusal to provide shield number**; § 87(2)(g)).

The CCRB received Body Worn Camera (BWC) footage of this incident from the BWCs of Police Officer Basora and Police Officer Nashlenas. These videos are attached to IAs #20 and 21 (Board Review 01 and 02) and summarized in IAs #25 and 26 (Board Review 03 and 04). Relevant portions of footage are embedded in the relevant portions of the report below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Anthony Basora threatened to arrest § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Marycatherine Nashlenas threatened to arrest § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Marycatherine Nashlenas threatened § 87(2)(b) with the use of force.

On August 3, 2018, § 87(2)(b) provided a telephone statement to IAB (Board Review 05). § 87(2)(b) did not respond to the CCRB's attempt to obtain a statement from him. On November 1, 2018, Police Officer Basora and Police Officer Nashlenas were interviewed at the CCRB.

§ 87(2)(b) stated that he was in the library because it was a cooling center, and a library employee told him he could not sleep there. He was not sleeping, though his eyes were closed.

The employee called 911 and two officers arrived, who threatened to arrest him if he did not leave. They escorted him out of the library against his wishes.

Police Officer Basora stated that he and Police Officer Nashlenas repeatedly asked § 87(2)(b) to leave the library. When § 87(2)(b) refused, Police Officer Basora informed § 87(2)(b) that he could be arrested if he did not leave.

Police Officer Nashlenas stated that she and Police Officer Basora could have arrested § 87(2)(b) for trespassing as a last resort if he had kept refusing to leave. She said that she told § 87(2)(b) "If you don't get up, you will be handcuffed and dragged out of here."

In an excerpt from the footage from Police Officer Basora's BWC, embedded below, Police Officer Basora tells § 87(2)(b) "You have to leave. You want to be arrested? Just get up and go outside." (Board Review 06)



201806622_20181126_1602_DM.mp4

In an excerpt from the footage from Police Officer Nashlenas' BWC, embedded below, Police Officer Nashlenas tells § 87(2)(b) "Either you walk out, or you get handcuffed and dragged out." The footage shows both officers repeatedly asking § 87(2)(b) to leave (Board Review 07).



201806622_20181126_1601_DM.mp4

As per EVENT #§ 87(2)(b) (Board Review 08), a staff member from the library called 911 and reported that § 87(2)(b) was being disorderly, throwing things at other people, damaging the library's property, and refusing to leave.

According to Penal Law section 140.05, a person is guilty of trespass when he knowingly enters or remains unlawfully in a building (Board Review 09).

As per New York Police Department Patrol Guide Procedure 221-01, force may be used when it is reasonable to overcome resistance to place a person in custody or to prevent escape from custody (Board Review 10).

§ 87(2)(g)
[Redacted text block]

§ 87(2)(g)
[Redacted text block]

Allegation (D): Abuse of Authority: Police Officer Anthony Basora refused to provide his name to § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Marycatherine Nashlenas refused to provide her name to § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Anthony Basora refused to provide his shield number to § 87(2)(b)

In § 87(2)(b)'s IAB telephone statement, he alleged that he asked for the officers' names and that they responded, "It's being recorded" and "I don't need to give you my name."

Police Officer Basora stated that § 87(2)(b) asked for his name and shield number, but did not ask for Police Officer Nashlenas' name or shield number. Police Officer Basora said that he responded to § 87(2)(b)'s request by saying, "It's right here," and pointing to his shield.

Police Officer Nashlenas stated that § 87(2)(b) asked for Police Officer Basora's name and that Police Officer Basora responded to § 87(2)(b)'s request by saying, "It's right here," or something to that effect. She could not recall if § 87(2)(b) asked for Police Officer Basora's shield number.

In an excerpt from the footage from Police Officer Basora's BWC, embedded below, § 87(2)(b) says, "I want your badge number" but does not ask for the officers' names. Police Officer Basora responds, "It's on camera," but does not provide his name or shield number. Police Officer Basora is not heard saying, "It's right here." At no point in the video from either officer's BWC does § 87(2)(b) request either of their names (Board Review 11).



201806622_20181126_1603_DM.mp4

In the footage from Police Officer Nashlenas' BWC, § 87(2)(b) says, "I want your badge number." Police Officer Nashlenas responds, "That's fine," but does not provide her name or shield number. § 87(2)(b) appears to be facing and speaking to Police Officer Basora during this exchange (Board Review 12).



201806622_20181126_1601A_DM.mp4

According to New York Police Department Patrol Guide Procedure 203-09, officers must courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests them to do so (Board Review 13).

§ 87(2)(g)

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Police Officer Basora has been a member of service for three years, and this is the first CCRB allegation to which he has been a subject.
- Police Officer Nashlenas has been a member of service for three years, and this is the first CCRB allegation to which she has been a subject.

Mediation, Civil and Criminal Histories

- The CCRB was unable to reach § 87(2)(b) so he was never presented with mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- A Notice of Claim search request was sent to the New York City Comptroller's office on November 26, 2018. The results will be added to the case upon receipt.

Squad 2

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date